

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CALVIN DURAL PRITCHETT, JR.,

No. C 10-02730 CW (PR)

Petitioner,

v.

RANDY GROUNDS, Warden,

ORDER DENYING PETITION FOR A
WRIT OF HABEAS CORPUS; AND
DENYING CERTIFICATE OF
APPEALABILITY

Respondent.

Petitioner seeks a writ of habeas corpus under 28 U.S.C. § 2254 challenging as a violation of his constitutional rights the 2008 decision to deny him parole by the California Board of Parole Hearings (Board). Petitioner specifically claims that the decision does not comport with due process because it is not supported by some evidence demonstrating that he poses a current unreasonable threat to the public.

In the context of parole, a prisoner subject to a parole statute similar to California's receives adequate process when he is allowed an opportunity to be heard and is provided with a statement of the reasons why parole was denied. Swarthout v. Cooke, No. 10-333, slip op. at 4-5 (U.S. Jan. 24, 2011). The record shows petitioner received at least this amount of process. The Constitution does not require more. Id. at 5.

Whether Board's decision was supported by some evidence of current dangerousness is irrelevant in federal habeas. The Supreme Court has made clear that "it is no federal concern . . . whether California's 'some evidence' rule of judicial review (a procedure

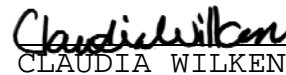
beyond what the Constitution demands) was correctly applied." Id.
at 6.

For the foregoing reasons, the petition for a writ of habeas
corpus is DENIED. And pursuant to Rule 11 of the Rules Governing
Section 2254 Cases, a certificate of appealability (COA) under 28
U.S.C. § 2253(c) is DENIED because it cannot be said that
"reasonable jurists would find the district court's assessment of
the constitutional claims debatable or wrong." Slack v. McDaniel,
529 U.S. 473, 484 (2000). Petitioner may seek a certificate of
appealability from the Ninth Circuit Court of Appeals.

The Clerk of the Court shall enter judgment in favor of
Respondent, terminate all pending motions, and close the file.

IT IS SO ORDERED.

Dated: 1/28/2011


CLAUDIA WILKEN

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

CALVIN DURAL PRITCHETT JR,

Case Number: CV10-02730 CW

Plaintiff,

CERTIFICATE OF SERVICE

v.

RANDY GROUNDS et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 28, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Calvin Dural Pritchett H56017
CTF - Central
B-222-U
P.O. Box 689
Soledad, CA 93960-0689

Dated: January 28, 2011

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk

United States District Court
For the Northern District of California